THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.8497 of 2007

24.4.2007

Between:

Visakhapatnam City SC, BC & EBC Welfare Association, represented by its
President Sri U.Uma Maheswara Rao

… Petitioner

AND

Sri Varahagiri Lakshmi Narasimha Swamy Devasthanam,
Simhachalam, Visakhapatnam, represented by its Executive Officer
And others

… Respondents

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WRIT PETITION No.8497 of 2007

ORDER:

Visakhapatnam City SC, BC & EBC Welfare Association, which is statedly a society registered under the Societies Registration Act, 1860, filed the instant writ petition seeking a direction to respondents not to interfere with their possession of the land admeasuring Acs.3.00 in survey No.275 situated at Adivivaram village in Visakhapatnam District.

The petitioner alleges that on considering the application made by the petitioner and first respondent, namely, Sri Varahagiri Lakshmi Narasimha Swamy Devasthanam, Simhachalam (Simhachalam Devasthanam, for brevity) passed resolution on 27.9.1982 to allot subject land on payment of Rs.1.00 lakh per acre by the petitioner. The amount was allegedly paid but the land was not transferred as the approval of the Government of Andhra Pradesh was not received. The subject land was handed over to the petitioner association, which was divided into plots admeasuring 60 Sq.yards each. All the members raised huts with palmyrah leaves. It is alleged that plot No.199 is vacant where the idol of Lord Saibaba was installed in temporary structure. Due to heavy winds, temporary structure collapsed and, therefore, the members of petitioner association started constructing a temporary shed in the place. Respondents 1 to 3 raised objection and tried to interfere with day-to-day activities of the petitioner association.

Learned Counsel for the petitioner submits that the action of the respondents in trying to prevent the petitioner from constructing Saibaba temple in plot No.199 of Varahagiri Colony is illegal and arbitrary. He also submits that the members of the petitioner association are entitled for regularization as per the orders of the Government in G.O.Ms.No.578, dated 19.8.2000 and, therefore, respondents cannot have any objection.

The petitioner association alleges that Simhachalam

Devasthanam agreed to transfer the land in their favour. No such proceeding or order is placed before this Court. Secondly, under Section 80 of Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (the Act, for brevity), the land belonging to a religious institution cannot be alienated or transferred in any manner without obtaining permission from the Commissioner of Endowments and transaction cannot be completed without confirmation of the auction by the Commissioner (see **Chinta Ramaiah v Government of Andhra Pradesh**[1]). Admittedly there is no such order issued by the Commissioner enabling Simhachalam Devasthanam to transfer the land in favour of petitioner association. Therefore, petitioner association cannot claim any right from out of the resolution allegedly passed by Simhachalam Devasthanam. Such transfer is not recognized in law and a transferee under such unauthorized transfer cannot have any right that can be enforced in a writ petition. Petitioner's remedy is in approaching the Commissioner of Endowments or the Government of Andhra Pradesh for necessary redressal.

The writ petition is misconceived and is accordingly dismissed. No costs.

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(**V.V.S.RAO, J**)

April 24, 2007.
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[1] 2003(2) ALD 723 = 2003(3) ALT 59